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BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Secretary Of Labor

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ORIGINAL

Award And Administration Of Contracts For Job Corps Centers

GAO examined the contract award and administrative procedures followed by the Dallas Regional Office of the Department of Labor's Employment and Training Administration.

GAO found (1) contracts for operating three Job Corps centers, which should have been awarded competitively, were awarded on a sole-source basis and (2) the region's performance of contract administration functions did not provide adequate assurance that the Government's resources were properly used and safeguarded. These problems may not be unique to the Dallas region.

This report contains recommendations to the Secretary regarding these findings. Labor accepts the recommendations.

GAO/PLRD-82-107
AUGUST 10, 1982

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

B-207459

The Honorable Raymond J. Donovan
The Secretary of Labor

Dear Mr. Secretary:

As part of a survey of Department of Labor procurement practices, we examined the contract award and administrative procedures followed by the Dallas Regional Office of Labor's Employment and Training Administration. We found that:

--Contracts for operating three Job Corps centers, which should have been awarded competitively, were awarded on a sole-source basis.

--The region's performance of contract administration functions did not provide adequate assurance that the Government's resources were properly used and safeguarded.

These problems may not be unique to the Dallas region because other regions also award sole-source contracts to nonprofit organizations using the same justification the Dallas region used (see p. 4). Also, other regions have centers with federally owned housing (see p. 7).

According to Federal procurement statutes and regulations, contracts for operating Job Corps centers should be awarded competitively, unless specifically exempted from competition. Also, Labor should provide adequate operational oversight to assure that contractors follow sound business practices and operate in accordance with applicable Federal regulations. Our recommendations regarding these findings are on pages 7 and 8.

We provided the Assistant Secretary for Employment and Training an opportunity to provide written comments on a draft of this report. Those comments were provided on July 21, 1982. Labor agreed with our recommendations and stated corrective actions were in process. (See app. I.)

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OBJECTIVE, SCOPE, AND METHODOLOGY

We selected the Employment and Training Administration's Dallas region because it awards a relatively high-dollar volume of contracts. Our objective was to determine whether the region's contract award and administration procedures complied with Federal procurement guidance and adequately protected the Government's interest.

We interviewed Labor officials in both regional and headquarters units. We examined contract award documents and visited two centers--one in Shreveport, Louisiana, and one in San Marcos, Texas--to test selected transactions. In addition, we reviewed audit reports and center assessment reports prepared by the region. Finally, we analyzed data to develop specific information on

--sole-source contract awards,

--contractor purchasing irregularities, and

--below market rental rates on federally owned housing.

Instead of expanding our efforts to identify the extent to which similar practices occurred at other Job Corps centers, we notified Job Corps officials of our concerns allowing them the opportunity to address these issues at all centers.

We performed our review in accordance with our current "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

SOLE-SOURCE CONTRACT AWARDS TO TEXAS EDUCATIONAL FOUNDATION

In 1978 the Dallas region (Region VI) awarded the current sole-source contracts for operating the Gary, McKinney, and El Paso, Texas, Job Corps Centers to the Texas Educational Foundation, Inc. The Foundation was established in 1964 to operate Job Corps centers in Texas and has been the sole operator of these three centers since they were established. The current contracts were awarded to cover the period January 1, 1979, to December 31, 1982. These cost-plus-fixed-fee contracts and their dollar values, as of September 30, 1982, are set out in the following table.

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Contract number	Center	Dollar value
JC-48-9-00011	Gary	$50,379,968
JC-48-9-00033	McKinney	17,872,777
JC-48-9-00022	El Paso	9,448,046
Total		$77,700,791

Federal procurement statutes call for competitive awards. Exceptions to this requirement are made only in specific circumstances. The Dallas region justifies making negotiated sole-source awards to the Foundation on the basis of what it considers a valid exception. The region's justification states:

> "Procurement by negotiation of the above described services is necessary because only Texas Educational Foundation, Inc., a Corporation, formed especially to operate a Center, a quasi-government organization, has been approved by Assistant Secretary [for Administration and Management] Clark memo dated April 25, 1974 as a sole source to supply these services. Field Memo No. 221-74 dated July 22, 1974 transmitting JCB No. 75-, Policy on Competition for Job Corps Center Contracts, further implements sole source exemption.
>
> "Use of formal advertising for procurement of the above described services is impracticable because one source has been established for supply of these services."

The Foundation's status as a quasi-government and nonprofit organization is the primary factor in this justification for exempting it from competition in contract award. However, although Federal Procurement Regulations contain 15 specific circumstances under which such an exception may be made, none relate to quasi-government or nonprofit organizations. The Foundation was connected with the State Government and the Texas Education Agency at its inception, but it has no unique operating ties with either now.

The Foundation was incorporated as a private educational corporation by a three-member board of trustees. The articles of incorporation stated that the Governor of Texas would appoint replacements for vacancies on the board. In 1968 the articles were restated to permit the board to appoint replacements or additional trustees. The Governor may appoint a new board only if the corporation is left with no trustees. These provisions,

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in effect, make the Foundation a self-perpetuating private, nonprofit firm.

Concerning awarding sole-source contracts to nonprofit organizations, the Comptroller General, in a July 26, 1974, decision (54 Comp. Gen. 58 (1974), 74-2 CPD 59), stated that there is no overriding uniqueness in the fact that a firm is a nonprofit organization. Even though nonprofit organizations are often able to quote lower prices for services, other organizations should be afforded an equal opportunity to compete.

We believe other qualified sources should compete on equal terms with the Foundation for the contracts to operate Texas centers. Competitive awards have been made in other Region VI States, including Louisiana, Oklahoma, and New Mexico. As of September 30, 1981, the region had made competitive awards for the operation of four Job Corps centers. Further, when the region solicited competitive proposals to operate four centers whose contracts are due to expire in 1982, it received competitive proposals for two of the four centers.

Additionally, on one occasion, when the Foundation competed for operation of a new center in another State, its 2-year cost proposal was about $700,000 higher than that of the winning, for-profit corporation. Also, the Foundation's technical proposal for this contract was rated no higher than those from two of the three competing for-profit corporations. Consequently, the award was made to a for-profit corporation which presented a good technical proposal and a reasonable cost proposal.

The Job Corps Director told us that other regions currently award sole-source Job Corps center contracts to about five other organizations based on justifications similar to those used for Foundation contracts.

REGIONAL CONTRACT ADMINISTRATION

At both centers visited, we found that, despite the requirement for contract monitoring and approvals, Federal resources were not being properly used and safeguarded. Regional project managers and contracting officers are required to evaluate contract operations and approve the use of Federal resources. However, they are at times unable to do so or are not fully cognizant of the contractors' operations. The most frequently cited reason for failing to evaluate contract operations was lack of travel funds.

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Purchasing irregularities at the Shreveport Job Corps Center

The regional office evaluated the contractor in April 1980 and found some purchasing irregularities. The project manager was unable to follow up on these and other weaknesses because travel funds were unavailable.

When we visited the center in August 1981, we found that purchasing controls were not being applied systematically. Our evaluation of 19 non-payroll expenditures, each over $1,000 made during May 1981, disclosed that:

--Eight were made without adequate documentation that the goods had been received.

--Three were made without soliciting competitive bids or adequately justifying departure from this standard practice.

--One payment was made without a purchase order or evidence of competitive bids for the purchase.

--One payment for electrical work totaling $4,980 involved questionable bids. Three bids were obtained and contract award was to the lowest bidder. Of these bids, none were signed, all had the same spelling errors, and two showed the same business address. Further, although final payment had been made, the vendor had neither completed all work nor supplied all materials required.

In response to our findings, the contractor and regional Labor officials investigated procurement practices. Based on their findings, two employees were fired, one was placed on probation, and two resigned. In addition, the contractor provided technical assistance to improve the center's business practices and internal controls.

Rental of federally owned housing mismanaged at Gary Center

Because the contracting officer for the Gary Center permitted the Foundation to rent 104 federally owned housing units on the Gary Center to its employees at less than area rates, Labor has, in effect, subsidized rentals with contract payments. The unintentional subsidy occurred because the Foundation was not required to follow policies governing charges for federally owned rental quarters established by the Congress and implemented by the Office of Management and Budget (OMB).

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OMB Circular A-45, which implements title 5 of the United States Code, section 5911 (1976), requires that basic rental rates be set at rates prevailing in the area for comparable private housing. The basic rate may be adjusted to consider unusual transportation costs, impositions on privacy or space, or inadequate size. However, the rental rate, after all adjustments, must be at least 50 percent of the rate charged for comparable private housing. Utility charges must also be comparable with those for similar private housing and must be clearly identifiable and distinguishable from rental charges. Finally, to ensure rates reflect those prevailing in the market, a rental survey is required at least every 5 years and annual adjustments are required based on changes in the Consumer Price Index.

The Gary Center was formerly an Air Force Base and still has most of the base structures, including a base housing area which is now used primarily to house Foundation employees. The Foundation's contract is for operating the center, and Labor reimburses the Foundation for all costs incurred under the contract. The Foundation accounts for all costs of operating the housing area and tries to recover these costs from employee-tenants through rental charges. Any housing costs not recovered through rental charges are reimbursed by Labor.

Under the terms of its contract, the Foundation is required to obtain the contracting officer's approval of housing rates. However, the contracting officer approved rates based on operating costs of the housing complex rather than on prevailing market rates as required by OMB Circular A-45. Additionally, utilities were not stated separately as required, and rental rates were not adjusted annually as required.

We did not attempt to determine the difference between the approved rental rates and rates required by Federal policy. However, we believe the difference is substantial. For example, the monthly fair market rent for a three-bedroom house in a nearby community was $398 during an April 1980 rental survey. In July 1981 the contractor's approved rates for three-bedroom duplexes and houses ranged from $200 to $255, including utilities. Further, utilities were not stated separately as required. Comparing the prevailing market rates with the approved rates, and considering the extent to which rates have changed over the years, we believe the Foundation's approved rates are considerably lower than those for comparable private housing. As a result of these low rates, the Government has lost income and some Foundation employees have received housing subsidies.

Moreover, the center's method of allocating utility cost has caused Labor to subsidize electrical utility charges. Only natural gas is metered separately to the Federal housing

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complex. Other utilities, such as electricity, water, garbage collection, and a lift station, are allocated to the housing units. These allocations were not adjusted annually, and we could not determine how the allocations were developed initially.

However, using available factors and the center's commercial electric rates, we estimate that Labor reimbursed the Foundation $46,000 in electricity costs between July 1976 and May 1981. These costs should have been paid by the occupants.

Job Corps officials advised us that federally owned housing is rented to center employees at six to eight other Job Corps centers.

CONCLUSIONS

Labor has justified the sole-source award of Job Corps centers' operating contracts to the Foundation on the basis that the Foundation is a quasi-government and nonprofit organization. Neither of these justifications are recognized exceptions to the requirement for awarding Federal contracts competitively. Since several qualified sources were available and there is no statutory exemption allowing a sole-source procurement, the contracts should have been awarded competitively.

Contract administration should provide adequate assurances that (1) a center has established sound business practices, (2) expenditures are adequately controlled, and (3) applicable Federal policy and procedures are complied with. Our survey indicates a need for improvement in the performance of contract administration functions at both centers visited. Corrective actions have been taken at the Shreveport Center; however, the Gary Center needs to bring its housing rental rates into compliance with OMB Circular A-45.

AGENCY COMMENTS

On June 15, 1982, we provided the Assistant Secretary for Employment and Training an opportunity to provide written comments on a draft of this report within the 30-day period allowed by Public Law 96-226. Such comments were provided on July 21, 1982, indicating concurrence with our recommendations and that corrective actions were in process. (See app. I.)

RECOMMENDATIONS

We recommend that the Secretary of Labor direct the Assistant Secretary for Employment and Training and the Director, Office of Job Corps and Young Adult Conservation Corps, to

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--award future contracts for operating Job Corps centers competitively unless contractors are specifically exempt from competition by statutes,

--limit the extension of existing sole-source contracts for operating Job Corps centers to the minimum amount of time needed to effect competitive procurement, and

--require the contracting officers for Job Corps centers with federally owned housing to assure that rental rates and utility costs are charged in accordance with OMB Circular A-45.

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As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to interested congressional committees and members of Congress and the Director, Office of Management and Budget. Copies are also being made available to other interested parties and will be furnished to others upon request.

Sincerely yours,

Edward A Densmore

for Gregory J. Ahart
Director

APPENDIX I

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D C 20210

JUL 21 1982

Mr. Gregory J. Ahart
Director
Human Resources Division
U.S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Ahart:

This is in reply to your letter of June 15, 1982, requesting comments on the draft of your proposed report on Award and Administration of Contracts for Job Corps Centers (Code 942007). The Department's response is enclosed.

The Department appreciates the opportunity to comment on this report.

Sincerely,

ALBERT ANGRISANI
Assistant Secretary of Labor

Enclosure

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U. S. Department of Labor's Response To
The Draft General Accounting Office Report
Entitled --

AWARD AND ADMINISTRATION OF CONTRACTS
FOR JOB CORPS CENTERS
(PLRD-82-)

Recommendation:

Other qualified sources should compete on equal terms with the Texas Education Foundation for the contracts to operate Texas centers.

Response: The Department concurs.

Regarding the three contracts awarded on a sole-source basis, we have, after approval by the Department's Procurement Review Board, extended the period of performance of the three contracts and instructed the Contracting Officer to submit the contracts for competitive award. The period of performance of the current contracts were extended as follows in order to allow for sufficient time to compete the competitive bid process and to make allowances for the Region VI work schedule:

CENTER	CONTRACT EXTENDED TO DATE
El Paso	December 31, 1982
McKinney	March 31, 1983
Gary	June 30, 1983

Additionally, we have issued an order, ETO 82-3, which requires that all contracts be awarded on a competitive basis and that exceptions to this order must have my approval prior to review and approval by the Department's Procurement Review Board.

Recommendation:

Purchasing controls need to be systematically applied.

Response: The Department concurs.

The draft report indicated that action was taken immediately by the contractor and regional staff to correct the problem. We have taken further action by providing a training course in advance contract administration which was held in Denver, Colorado, the week of June 20, 1982. This course will be offered again in August in Atlanta, Georgia, for those regional staff who were unable to attend the June 20 session. In addition, we have made funds available to the Department's Office of the Inspector General, Audit Division, to conduct audits of the Job Corps Centers.

APPENDIX I

The lack of travel funds is not an issue in this matter and we will assure that our regions monitor the contracts on a regular basis.

Recommendation:

Require the Contracting Officers for Job Corps Centers with Federally-owned housing to assure that rental rates and utility costs are charged in accordance with OMB Circular A-45.

Response: The Department concurs.

We have issued instructions to each Regional Director and furnished a copy of OMB Circular A-45 regarding the charging of rental rates on all Federally-owned housing. Region VI has been instructed to contact the Regional GSA Real Property Division and arrange for a rental survey and to follow the guidelines of OMB Circular A-45. A report of Federally-owned housing in each region will be provided to this office by August 15, 1982, along with all agreements and an indication of the last rental survey.

Please be assured that we will be responsive to the findings listed in the draft report and that corrective action is now in progress.

(942007)

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